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In re Application of  
VAN GORKOM, et al.  
Application No.: 10/501,827  
PCT No.: PCT/IB03/00067  
Int. Filing Date: 14 January 2003  
Priority Date: 22 January 2002  
Attorney Docket No.: NL 020035  
For: DISPLAY DEVICE COMPRISING A  
LIGHT GUIDE

DECISION ON PAPERS

UNDER 37 CFR 1.42

This decision is in response to applicant's declarations filed 19 July 2004 in the United States Patent and Trademark Office (USPTO). The response is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

**BACKGROUND**

On 14 January 2003, applicant filed the international application, which claimed a priority date of 22 January 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 22 July 2004.

On 19 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an Information Disclosure Statement; a first preliminary amendment; an assignment for recording and a combined declaration and power of attorney.

**DISCUSSION**

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 19 July 2004 is executed by joint inventors Peter Duine, Johannes Marra, Petrus Bongaerts, Johannes Den Biggelaar and Roland Schuurbijs. In addition, the declaration has been executed by Henricus Kunnen as legal representative of the deceased joint

inventor, Gerardus van Gorkom. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration does not set forth the residence, post office address and country of citizenship of the legal representative. Under 37 CFR 1.497(b) the information must be provided for both the deceased inventor and his legal representative. In addition, the filed declarations fail to conform to the Manual of Patent Examining Procedure (MPEP). Section 201.03 explains:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The filed declarations contain six pages one of two and only a single page two of two. As such, it appears that the inventors were not provided with complete declarations for signature or only returned the signature pages. Either scenario renders the documents non-compliant.

### **CONCLUSION**

Applicant's request for status under 37 CFR 1.42 is **DENIED, without prejudice.**

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) as detailed above. Any reconsideration request should include a cover letter entitled, "Renewed Request Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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